

5. Recently, an additional document – referenced in production as an “Incident History Report” (IHR) started being produced as well. The IHR is maintained in a different data repository than the HR file or the TCOLE files for that matter. There is some cross-reference, but each category of document is for different purposes. *See Exh. A – Incident History Reports for DO Allen, Conrad & Wong.*

6. There are, in fact, some references in the IHR documentation that overlap with documentation in the HR file materials produced as well as in the jail records produced.

DEPOSITION SCHEDULING

7. In connection with the deposition scheduling of DO Allen, who had knowledge of facts pertaining to Plaintiff Kevin Lee Smith, the order of scheduling and the order of production got administratively mucked up – the depositions got scheduled before the underlying HR and TCOLE documents had been procured, vetted, and produced. When the documents were produced, it was within a few days of the scheduled (or rescheduled) deposition.

8. Ordinarily, this would not have been a problem. In many cases the document production pertaining to a DO who is being deposed happens within a few days of the deposition. In the case of these three deponents, the IHR reports contained a reference to other incidents other than that of the Plaintiff.

9. Plaintiff’s counsel demanded that other content referred in the IHRs be produced in advance of the deposition. See ECF 173.1 at pp. 3-4. A quick review of other incidents reflected in the IHR revealed that the incident in issues did not involve the Plaintiffs or Plaintiff’s pleaded incident.

10. Attorneys Navarro and Dekle did telephonically confer about this issue but could not reach any agreement about the scope of relevant evidence. See ECF 172.1 at p. 3. The disagreement turns on the scope of relevancy for *Monell* purposes, and also on issues of proportionality. Plaintiffs’ definition of relevancy for UOF claims is so broad that it encompasses every DO in the facility who was ever the subject, or even a witness, to a reported UOF incident, however nominal it may be.

11. Counsel did agree the already scheduled depositions would go forward, and defense counsel did later propose a protocol that would not slow down the deposition process but left open the door to further review of collateral content referenced in the IHR of a particular jail guard. See

Exh. B – Email to Counsel dated 6/24/2025. Hence, there is no immediate harm or delay to the deposition discovery process previously implemented.

CONCLUSION & PRAYER

THEREFORE, DEFENDANT requests that the Court subsume the specific discovery issue raised here into the larger question about the scope of *Monell* discovery to be addressed in the Motions scheduled to be heard on 7/31/2025 and any other Motions pertaining to this subject matter.

SIGNED on the 2nd day of JULY 2025.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true copy of this document has been served in accordance with one or more of the authorized methods for service of process referenced in the Federal Rules of Civil Procedure on all attorneys of record in this case on the 2nd day of JULY 2025, to wit:

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